



February 11, 2022

ENGROSSED HOUSE BILL No. 1205

DIGEST OF HB 1205 (Updated February 9, 2022 4:33 pm - DI 149)

Citations Affected: IC 30-4; IC 34-30.

Synopsis: Uniform trust decanting act and trustee duties. Allows a trustee of an irrevocable trust to appoint a successor trustee or multiple trustees. Provides that a trustee's power to appoint a successor trustee includes the power to allocate trustee powers to one or more trustees. Enacts the uniform trust decanting act. Creates a definition of the decanting power to include a power by a trustee to make limited modifications to an irrevocable trust, including an asset transfer to a new trust. Requires that a modification be consistent with a settlor's or charitable organization's intent. Permits the trustee of an existing trust to make modifications to or distributions from an existing trust for the benefit of a disabled beneficiary. Prohibits a trustee from being required to decant. Requires advanced notice to all qualified beneficiaries. Provides that the decanting power of an authorized fiduciary is not precluded by certain terms. (The introduced version of this bill was prepared by the Probate Code Commission.)

Effective: July 1, 2022.

Young J

(SENATE SPONSORS — FREEMAN, KOCH)

January 6, 2022, read first time and referred to Committee on Judiciary.
January 13, 2022, reported — Do Pass.
January 18, 2022, read second time, ordered engrossed.
January 19, 2022, engrossed.
January 20, 2022, read third time, passed. Yeas 84, nays 0.

SENATE ACTION

February 1, 2022, read first time and referred to Committee on Judiciary.
February 10, 2022, amended, reported favorably — Do Pass.

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February 11, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1205

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-4-3-29.3 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2022]: **Sec. 29.3. (a) The power to appoint a successor trustee
4 under a governing instrument or under section 33 of this chapter
5 includes:**
6 **(1) the power to appoint multiple successor trustees; and**
7 **(2) the power to allocate trustee powers to one (1) or more**
8 **trustees.**
9 **(b) A trustee to whom powers:**
10 **(1) have been exclusively allocated under subsection (a) must**
11 **be a fiduciary only with respect to the powers allocated; and**
12 **(2) have not been allocated under subsection (a) is not liable**
13 **for the actions of a trustee to whom the powers, duties, and**
14 **responsibilities are allocated.**
15 **(c) The rules governing the rights, powers, duties, and liabilities**
16 **of a governing instrument under this chapter apply to a trustee**
17 **appointed under this section unless expressly limited by the terms**

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1 **of a governing instrument.**

2 SECTION 2. IC 30-4-3-36 IS REPEALED [EFFECTIVE JULY 1,
3 2022]. Sec. 36. (a) Unless a trust expressly provides otherwise, a
4 trustee who has discretion under the terms of a trust (referred to in this
5 section as the "first trust") to invade the principal of the trust to make
6 distributions to or for the benefit of one (1) or more persons may
7 instead exercise the power by appointing all or part of the principal of
8 the first trust in favor of a trustee of another trust (referred to in this
9 section as the "second trust") for the benefit of one (1) or more persons
10 under the same trust instrument or under a different trust instrument as
11 long as:

12 (1) the beneficiaries of the second trust are the same as the
13 beneficiaries of the first trust;

14 (2) the second trust does not reduce any income, annuity, or
15 unitrust interest in the assets of the first trust; and

16 (3) if any contributions to the first trust qualified for a marital or
17 charitable deduction for purposes of the federal income, gift, or
18 estate taxes, the second trust does not contain any provision that,
19 if included in the first trust, would have prevented the first trust
20 from qualifying for a deduction or reduced the amount of a
21 deduction.

22 (b) The exercise of a power to invade principal under subsection (a)
23 must be by an instrument that is:

24 (1) in writing;

25 (2) signed and acknowledged by the trustee; and

26 (3) filed with the records of the first trust.

27 (c) The exercise of a power to invade principal under subsection (a)
28 is considered the exercise of a power of appointment, other than a
29 power to appoint to the trustee, the trustee's creditors, the trustee's
30 estate, or the creditors of the trustee's estate. The exercise of the power
31 does not extend the time at which the permissible period of the rule
32 against perpetuities begins and the law that determines the permissible
33 period of the rule against perpetuities of the first trust.

34 (d) The trustee shall notify in writing all qualified beneficiaries of
35 the first trust at least sixty (60) days before the effective date of the
36 trustee's exercise of the power to invade principal under subsection (a)
37 of the manner in which the trustee intends to exercise the power. A
38 copy of the proposed instrument exercising the power satisfies the
39 trustee's notice obligation under this subsection. If all qualified
40 beneficiaries waive the notice period by signed written instrument
41 delivered to the trustee, the trustee's power to invade principal may be
42 exercised immediately. The trustee's notice under this subsection does

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1 not limit the right of any beneficiary to object to the exercise of the
 2 trustee's power to invade principal; except as otherwise provided by
 3 this article:

4 (e) The exercise of the power to invade principal under subsection
 5 (a) is not prohibited by a spendthrift clause or by a provision in the
 6 trust instrument that prohibits amending or revoking the trust:

7 (f) This section is not intended to create or imply a duty to exercise
 8 a power to invade principal. No inference of impropriety may be made
 9 as a result of a trustee not exercising the power to invade principal
 10 conferred under subsection (a):

11 (g) This section may not be construed to abridge the right of any
 12 trustee who has a power of invasion to appoint property in further trust
 13 that arises under the terms of the first trust, under any other provision
 14 of this article or any other statute, or under common law:

15 SECTION 3. IC 30-4-10 IS ADDED TO THE INDIANA CODE AS
 16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2022]:

18 **Chapter 10. Uniform Trust Decanting Act**

19 **Sec. 1. (a) This chapter applies to a trust created before, on, or**
 20 **after July 1, 2022, that:**

21 **(1) has its principal place of administration in this state,**
 22 **including a trust whose principal place of administration has**
 23 **been changed to this state; or**

24 **(2) provides by its trust instrument that it is governed by the**
 25 **law of this state or is governed by the law of this state for the**
 26 **purpose of:**

27 **(A) administration, including administration of a trust**
 28 **whose governing law for purposes of administration has**
 29 **been changed to the law of this state;**

30 **(B) construction of terms of the trust; or**

31 **(C) determining the meaning or effect of terms of the trust.**

32 **(b) Except as provided in subsections (c) and (d), this chapter**
 33 **applies to an express trust that is irrevocable or revocable by the**
 34 **settlor only with the consent of the trustee or a person holding an**
 35 **adverse interest.**

36 **(c) This chapter does not:**

37 **(1) apply to a trust held solely for charitable purposes;**

38 **(2) limit the power of a trustee, powerholder, or other person**
 39 **to distribute or appoint property in further trust;**

40 **(3) limit the power to modify a trust under the trust**
 41 **instrument, law of this state other than this chapter, common**
 42 **law, a court order, or a nonjudicial settlement agreement; or**



1 (4) affect the ability of a settlor to provide in a trust
 2 instrument for the distribution of the trust property or
 3 appointment in further trust of the trust property or for
 4 modification of the trust instrument. Such provisions in the
 5 trust instrument shall control over any applicable provision
 6 of this chapter.

7 (d) Subject to section 45 of this chapter, a trust instrument may
 8 restrict or prohibit exercise of the decanting power.

9 Sec. 2. As used in this chapter, "appointive property" means the
 10 property or property interest subject to a power of appointment.

11 Sec. 3. As used in this chapter, "ascertainable standard" means
 12 a standard relating to an individual's health, education, support, or
 13 maintenance as defined by 26 U.S.C. 2041(b)(1)(A) or 26 U.S.C.
 14 2514(c)(1) and applicable regulations.

15 Sec. 4. As used in this chapter, "authorized fiduciary" means:

- 16 (1) a trustee, trust director, or other fiduciary, other than a
 17 settlor, that has discretion to distribute or direct a trustee to
 18 distribute part or all of the principal of the first trust to one
 19 (1) or more current beneficiaries;
 20 (2) a special fiduciary appointed under section 39 of this
 21 chapter; or
 22 (3) a special-needs fiduciary under section 43 of this chapter.

23 Sec. 5. As used in this chapter, "beneficiary" means a person
 24 that:

- 25 (1) has a present or future, vested or contingent, beneficial
 26 interest in a trust;
 27 (2) holds a power of appointment over trust property; or
 28 (3) is an identified charitable organization that may receive
 29 distributions under the terms of the trust.

30 Sec. 6. As used in this chapter, "beneficiary with disability"
 31 means a beneficiary who is determined, in the exercise of an
 32 authorized fiduciary's discretion, to have one (1) of the following
 33 conditions:

- 34 (1) Dementia, memory loss, Parkinson's disease, or other
 35 progressive condition that, currently or in the future, may
 36 impair the ability of the beneficiary to provide self care or
 37 manage the beneficiary's assets.
 38 (2) A physical or mental condition or infirmity due to age,
 39 cognitive impairment, addiction, or disease that impairs the
 40 beneficiary's ability to provide self care or manage the
 41 beneficiary's assets.
 42 (3) The susceptibility of the beneficiary, at any age, to



1 financial exploitation, as defined in IC 23-19-4.1,
 2 IC 30-5-5-6.5, or FINRA Rule 2165 approved by the United
 3 States Securities and Exchange Commission.

4 (4) A condition requiring essential medical treatment or
 5 prescription medication that the beneficiary cannot
 6 reasonably provide for from the beneficiary's resources
 7 outside the trust assets.

8 (5) A condition related directly or indirectly to the disability
 9 of a beneficiary described in subdivisions (1) through (4) with
 10 respect to which the settlor of the trust has expressed the
 11 settlor's intent.

12 Sec. 7. As used in this chapter, "charitable interest" means an
 13 interest in a trust that:

14 (1) is held by an identified charitable organization and makes
 15 the organization a qualified beneficiary;

16 (2) benefits only a charitable organization and, if the interest
 17 were held by an identified charitable organization, would
 18 make the organization a qualified beneficiary; or

19 (3) is held solely for a charitable purpose and, if the interest
 20 were held by an identified charitable organization, would
 21 make the organization a qualified beneficiary.

22 Sec. 8. As used in this chapter, "charitable organization" means:

23 (1) a person, other than an individual, organized and operated
 24 exclusively for a charitable purpose; or

25 (2) a government or governmental subdivision, agency, or
 26 instrumentality to the extent it holds funds exclusively for a
 27 charitable purpose.

28 Sec. 9. As used in this chapter, "charitable purpose" means the
 29 relief of poverty, the advancement of education or religion, the
 30 promotion of health, a municipal or other governmental purpose,
 31 or a purpose that is beneficial to the community.

32 Sec. 10. As used in this chapter, "court" has the meaning set
 33 forth in IC 30-4-1-2(6).

34 Sec. 11. As used in this chapter, "current beneficiary" means a
 35 beneficiary who, on the date that the beneficiary's qualification is
 36 determined, is a distributee or permissible distributee of trust
 37 income or principal. The term includes the holder of a presently
 38 exercisable general power of appointment but does not include a
 39 person that is a beneficiary only because the person holds any
 40 other power of appointment.

41 Sec. 12. As used in this chapter, "decanting power" means the
 42 power of an authorized fiduciary under this chapter to:



- 1 (1) distribute property of a first trust to one (1) or more
2 second trusts; or
3 (2) to modify the terms of the first trust.
- 4 Sec. 13. As used in this chapter, "designated representative" has
5 the meaning set forth in IC 30-4-1-2(8).
- 6 Sec. 14. As used in this chapter, "expanded distributive
7 discretion" means a discretionary power of distribution that is not
8 limited to an ascertainable standard or a reasonably definite
9 standard.
- 10 Sec. 15. As used in this chapter, "first trust" means a trust over
11 which an authorized fiduciary may exercise the decanting power.
- 12 Sec. 16. As used in this chapter, "first-trust instrument" means
13 the trust instrument for a first trust.
- 14 Sec. 17. As used in this chapter, "general power of
15 appointment" means a power of appointment exercisable in favor
16 of:
- 17 (1) a powerholder;
18 (2) a powerholder's estate;
19 (3) a creditor of the powerholder; or
20 (4) a creditor of the powerholder's estate.
- 21 Sec. 18. As used in this chapter, "jurisdiction" means a
22 geographic area, including a state or country.
- 23 Sec. 19. As used in this chapter, "person" means:
- 24 (1) an individual;
25 (2) a corporation;
26 (3) a business trust;
27 (4) an estate;
28 (5) a trust;
29 (6) a partnership;
30 (7) a limited liability company;
31 (8) an association;
32 (9) a joint venture;
33 (10) a government;
34 (11) a governmental subdivision;
35 (12) an agency or instrumentality;
36 (13) a public corporation; or
37 (14) any other legal or commercial entity.
- 38 Sec. 20. As used in this chapter, "power of appointment" means
39 a power that enables a powerholder acting in a nonfiduciary
40 capacity to designate a recipient of an ownership interest in or
41 another power of appointment over the appointive property. The
42 term does not include a power of attorney.



1 **Sec. 21.** As used in this chapter, "powerholder" means a person
2 in which a donor creates a power of appointment.

3 **Sec. 22. (a)** As used in this chapter, "presently exercisable power
4 of appointment" means a power of appointment exercisable by the
5 powerholder at the relevant time.

6 **(b)** The term includes a power of appointment exercisable only
7 after the occurrence of a specified event, the satisfaction of an
8 ascertainable standard, or the passage of a specified time.

9 **(c)** The term does not include a power exercisable only at the
10 powerholder's death.

11 **Sec. 23.** As used in this chapter, "qualified beneficiary" has the
12 meaning set forth in IC 30-4-1-2(19).

13 **Sec. 24.** As used in this chapter, "reasonably definite standard"
14 means a clearly measurable standard under which a holder of a
15 power of distribution is legally accountable within the meaning of
16 26 U.S.C. 674(b)(5)(A) and applicable regulations.

17 **Sec. 25.** As used in this chapter, "record" means information
18 that is inscribed on a tangible medium or that is stored in an
19 electronic or other medium and is retrievable in perceivable form.

20 **Sec. 26.** As used in this chapter, "second trust" means:

21 (1) a first trust after modification under this chapter; or

22 (2) a trust to which a distribution of property from a first
23 trust is or may be made under this chapter.

24 **Sec. 27.** As used in this chapter, "second-trust instrument"
25 means the trust instrument for a second trust.

26 **Sec. 28. (a)** As used in this chapter, except as provided in section
27 55 of this chapter, "settlor" has the meaning set forth in
28 IC 30-4-1-2(21).

29 **(b)** If more than one (1) person creates or contributes property
30 to a trust, each person is a settlor of the portion of the trust
31 property attributable to the person's contribution except to the
32 extent another person has power to revoke or withdraw that
33 portion.

34 **Sec. 29.** As used in this chapter, "sign" means with present
35 intent to authenticate or adopt a record to:

36 (1) execute or adopt a tangible symbol; or

37 (2) attach to or logically associate with the record of an
38 electronic symbol, sound, or process.

39 **Sec. 30.** As used in this chapter, "state" means:

40 (1) a state of the United States;

41 (2) the District of Columbia;

42 (3) Puerto Rico;



- 1 (4) the United States Virgin Islands; or
 2 (5) a territory or insular possession subject to the jurisdiction
 3 of the United States.

4 Sec. 31. As used in this chapter, "terms of the trust" has the
 5 meaning set forth in IC 30-4-1-2(22).

6 Sec. 32. As used in this chapter, "trust instrument" has the
 7 meaning set forth in IC 30-4-1-2(25). The term includes a written
 8 document executed by the settlor to create a trust or by a person
 9 to create a second trust that contains some or all of the terms of the
 10 trust, including any amendments.

11 Sec. 33. (a) Except as provided in this chapter, an authorized
 12 fiduciary may exercise the decanting power without the consent of
 13 any person and without court approval.

14 (b) An authorized fiduciary shall act in accordance with its
 15 fiduciary duties, including the duty to act in accordance with the
 16 purposes of the first trust in exercising the decanting power.

17 (c) This chapter does not create or imply a duty to exercise the
 18 decanting power or to inform beneficiaries about the applicability
 19 of this chapter.

20 (d) Except as provided in a first-trust instrument, the terms of
 21 the first trust are deemed to include the decanting power.

22 Sec. 34. A trustee or person that reasonably relies on:

23 (1) the validity of a distribution of the property of a trust to
 24 another trust; or

25 (2) a modification of a trust under this chapter, law of this
 26 state other than this article, or the law of another jurisdiction;
 27 is not liable to any person for any action or failure to act as a result
 28 of the reliance.

29 Sec. 35. (a) Except as provided in subsection (c), an authorized
 30 fiduciary shall give notice in a record of the intended exercise of
 31 the decanting power not later than sixty (60) days before the
 32 exercise of the decanting power to:

33 (1) each settlor of the first trust, if living or then in existence;

34 (2) each qualified beneficiary of the first trust, including the
 35 designated representative, if any, or other representative
 36 under IC 30-4-6-10.5 of a qualified beneficiary who:

37 (A) is a minor or an incapacitated person;

38 (B) is unborn;

39 (C) is unknown; or

40 (D) cannot be located after a reasonably diligent search;

41 (3) each holder of a presently exercisable power of
 42 appointment in the first trust;



1 (4) each person that currently has the right to remove or
2 replace the authorized fiduciary;

3 (5) each fiduciary of the first trust;

4 (6) each fiduciary of the second trust; and

5 (7) the attorney general, if section 44(c) of this chapter
6 applies.

7 (b) A notice period under subsection (a) begins on the day that
8 the notice is given and ends fifty-nine (59) days later.

9 (c) An authorized fiduciary is not required to give notice under
10 subsection (a) to a person that:

11 (1) is not known to the fiduciary;

12 (2) is known to the fiduciary but cannot be located by the
13 fiduciary after a reasonably diligent search; or

14 (3) has no representative under IC 30-4-6-10.5.

15 (d) The decanting power may be exercised before expiration of
16 the notice period under subsection (a) if all persons entitled to
17 receive notice waive the notice period in a signed record.

18 Sec. 36. A notice under section 35 of this chapter must:

19 (1) specify the manner in which the authorized fiduciary
20 intends to exercise the decanting power;

21 (2) specify the proposed effective date for the exercise of the
22 decanting power;

23 (3) include a copy of the first-trust instrument; and

24 (4) include a copy of the second-trust instrument.

25 Sec. 37. (a) The receipt of notice, waiver of the notice period, or
26 expiration of the notice period does not affect the right of a person
27 to file a petition under section 39 of this chapter asserting that:

28 (1) an exercise of the decanting power:

29 (A) is ineffective because it did not comply with this
30 chapter;

31 (B) was an abuse of discretion; or

32 (C) was a breach of a fiduciary duty; or

33 (2) section 52 of this chapter applies to the exercise of the
34 decanting power.

35 (b) An exercise of the decanting power is not ineffective because
36 of the failure to give notice to one (1) or more persons under
37 section 35 of this chapter if the authorized fiduciary acted with
38 reasonable care to comply with section 35 of this chapter.

39 Sec. 38. (a) Notice to a person with authority to represent and
40 bind another person under a first-trust instrument or this article
41 has the same effect as notice given directly to the person
42 represented.



1 (b) Consent of or waiver by a person with authority to represent
2 and bind another person under a first-trust instrument or this
3 article is binding on the person represented unless the person
4 represented objects to the representation before the consent or
5 waiver otherwise would become effective.

6 (c) A person with authority to represent and bind another
7 person under a first-trust instrument or this article may file a
8 petition under section 39 of this chapter on behalf of the person
9 represented.

10 (d) A settlor may not represent or bind a beneficiary under this
11 chapter.

12 Sec. 39. (a) Upon a petition by an authorized fiduciary, a
13 beneficiary, or a person entitled to notice under section 35 of this
14 chapter or with respect to a charitable interest by the attorney
15 general or other person that has standing to enforce the charitable
16 interest, the court may:

17 (1) provide instructions to the authorized fiduciary about
18 whether a proposed exercise of the decanting power is
19 permitted under this chapter and consistent with the fiduciary
20 duties of the authorized fiduciary;

21 (2) appoint a special fiduciary and authorize the special
22 fiduciary to determine whether the exercise of the decanting
23 power is proper under this chapter and to exercise the
24 decanting power;

25 (3) approve an exercise of the decanting power;

26 (4) determine that a proposed or attempted exercise of the
27 decanting power is ineffective because:

28 (A) after applying section 52 of this chapter, the proposed
29 or attempted exercise does not comply with this chapter;
30 or

31 (B) the proposed or attempted exercise is an abuse of the
32 fiduciary's discretion or a breach of a fiduciary duty;

33 (5) determine the extent section 52 of this chapter applies to
34 a prior exercise of the decanting power;

35 (6) provide instructions to the trustee regarding the
36 application of section 52 of this chapter to a prior exercise of
37 the decanting power; or

38 (7) order relief to carry out the purposes of this chapter.

39 (b) Upon a petition by an authorized fiduciary, the court may
40 approve:

41 (1) an increase in the fiduciary's compensation under section
42 46 of this chapter; or



- 1 (2) a modification under section 48 of this chapter of a
- 2 provision granting a person the right to remove or replace the
- 3 fiduciary.
- 4 **Sec. 40. An exercise of the decanting power must be made in a**
- 5 **record signed by an authorized fiduciary. The signed record must:**
- 6 (1) directly or indirectly reference the notice required by
- 7 section 35 of this chapter;
- 8 (2) identify the first trust and the second trust;
- 9 (3) identify and state the property of the first trust being
- 10 distributed to each second trust; and
- 11 (4) identify the property that remains in the first trust.
- 12 **Sec. 41. (a) As used in this section, "noncontingent right" means**
- 13 **a right that is not subject to the:**
- 14 (1) exercise of discretion; or
- 15 (2) occurrence of a specified event that is not certain to occur.
- 16 **The term does not include a right held by a beneficiary if any**
- 17 **person has discretion to distribute property subject to the right of**
- 18 **any person other than the beneficiary or the beneficiary's estate.**
- 19 **(b) As used in this section, "presumptive remainder**
- 20 **beneficiary" means a qualified beneficiary other than a current**
- 21 **beneficiary.**
- 22 **(c) As used in this section, "successor beneficiary" means a**
- 23 **beneficiary that is not a qualified beneficiary on the date the**
- 24 **beneficiary's qualification is determined. The term does not include**
- 25 **a person that is a beneficiary only because the person holds a**
- 26 **nongeneral power of appointment.**
- 27 **(d) As used in this section, "vested interest" means a:**
- 28 (1) right to a mandatory distribution that is a noncontingent
- 29 right as of the date of the exercise of the decanting power;
- 30 (2) current and noncontingent right, annually or more
- 31 frequently, to a mandatory distribution of income, a specified
- 32 dollar amount, or a percentage of value of some or all of the
- 33 trust property;
- 34 (3) current and noncontingent right, annually or more
- 35 frequently, to withdraw income, a specified dollar amount, or
- 36 a percentage of value of some or all of the trust property;
- 37 (4) presently exercisable general power of appointment; or
- 38 (5) right to receive an ascertainable part of the trust property
- 39 on the trust's termination that is not subject to the exercise of
- 40 discretion or to the occurrence of a specified event that is not
- 41 certain to occur.
- 42 **(e) Subject to subsection (f) and section 44 of this chapter, an**



1 authorized fiduciary that has expanded distributive discretion over
 2 the principal of a first trust for the benefit of one (1) or more
 3 current beneficiaries may exercise the decanting power over the
 4 principal of the first trust.

5 (f) Subject to section 43 of this chapter, an exercise of the
 6 decanting power under this section must not:

7 (1) except as provided in subsection (g), include as a current
 8 beneficiary a person that is not a current beneficiary of the
 9 first trust;

10 (2) except as provided in subsection (g), include as a
 11 presumptive remainder beneficiary or successor beneficiary
 12 a person that is not a current beneficiary, presumptive
 13 remainder beneficiary, or successor beneficiary of the first
 14 trust; or

15 (3) reduce or eliminate a vested interest.

16 (g) Subject to subsection (f)(3) and section 44 of this chapter, in
 17 an exercise of the decanting power under this subsection, a second
 18 trust may be a trust created or administered under the law of any
 19 jurisdiction and may:

20 (1) retain a power of appointment granted in the first trust;

21 (2) omit a power of appointment granted in the first trust,
 22 other than a presently exercisable general power of
 23 appointment;

24 (3) create or modify a power of appointment if the
 25 powerholder is a current beneficiary of the first trust and the
 26 authorized fiduciary has expanded distributive discretion to
 27 distribute principal to the beneficiary; and

28 (4) create or modify a power of appointment if the
 29 powerholder is a presumptive remainder beneficiary or
 30 successor beneficiary of the first trust, but the exercise of the
 31 power may take effect only after the powerholder becomes, or
 32 would have become a current beneficiary.

33 (h) A power of appointment described in subsections (g)(1)
 34 through (g)(4) may be general or nongeneral. The class of
 35 permissible appointees in favor of which the power may be
 36 exercised may be broader than or different from the beneficiaries
 37 of the first trust.

38 (i) If an authorized fiduciary has expanded distributive
 39 discretion over part of the principal of a first trust, the fiduciary
 40 may exercise the decanting power under this section over the
 41 principal that the authorized fiduciary has expanded distributive
 42 discretion.



1 **Sec. 42. (a) As used in this section, "limited distributive**
2 **discretion" means a discretionary power of distribution that is**
3 **limited to an ascertainable standard or a reasonably definite**
4 **standard.**

5 **(b) An authorized fiduciary that has limited distributive**
6 **discretion over the principal of the first trust for the benefit of one**
7 **(1) or more current beneficiaries may exercise the decanting power**
8 **over the principal of the first trust.**

9 **(c) Under this section and subject to section 44 of this chapter,**
10 **a second trust may be created or administered under the law of**
11 **any jurisdiction. A second trust must grant each beneficiary of the**
12 **first trust beneficial interests that are substantially similar to the**
13 **beneficial interests of the beneficiary in the first trust.**

14 **(d) A power to make a distribution under a second trust for the**
15 **benefit of a beneficiary who is an individual is substantially similar**
16 **to a power under the first trust to make a distribution directly to**
17 **the beneficiary. A distribution is for the benefit of a beneficiary if:**

18 **(1) the distribution is applied for the benefit of the**
19 **beneficiary;**

20 **(2) the beneficiary is under a legal disability or the trustee**
21 **reasonably believes the beneficiary is incapacitated and the**
22 **distribution is made as permitted under this article; or**

23 **(3) the distribution is made as permitted under the terms of**
24 **the first-trust instrument and the second-trust instrument for**
25 **the benefit of the beneficiary.**

26 **(e) If an authorized fiduciary has limited distributive discretion**
27 **of the principal of a first trust, the fiduciary may only exercise the**
28 **decanting power under this section over the principal that the**
29 **authorized fiduciary has limited distributive discretion.**

30 **Sec. 43. (a) This section applies to any trust that has a**
31 **beneficiary with a disability, without limitation, whenever a**
32 **special-needs fiduciary for the trust determines that the beneficiary**
33 **with a disability may qualify for governmental benefits based on a**
34 **disability, whether the beneficiary currently receives those benefits**
35 **or has been adjudicated to be an incapacitated person under**
36 **IC 29-3.**

37 **(b) As used in this section, "governmental benefits" means**
38 **financial aid or services from a state, federal, or other public**
39 **agency.**

40 **(c) As used in this section, "special-needs fiduciary" means:**

41 **(1) a trustee or other fiduciary, other than a settlor, that has**
42 **discretion to distribute part or all of the principal of a first**



- 1 trust to one or more current beneficiaries;
 2 (2) if no trustee or fiduciary has discretion under subdivision
 3 (1), a trustee or other fiduciary, other than a settlor, that has
 4 discretion to distribute part or all of the income of the first
 5 trust to one (1) or more current beneficiaries; or
 6 (3) if no trustee or fiduciary has discretion under subdivisions
 7 (1) and (2), a trustee or other fiduciary, other than a settlor,
 8 that is required to distribute part or all of the income or
 9 principal of the first trust to one (1) or more current
 10 beneficiaries;
- 11 with respect to a trust that has a beneficiary with a disability.
- 12 (d) As used in this section, "special-needs trust" means a trust
 13 that the trustee reasonably believes would not be considered a
 14 resource for purposes of determining whether a beneficiary with
 15 a disability is eligible for governmental benefits.
- 16 (e) A special-needs fiduciary may exercise the decanting power
 17 under section 41 of this chapter over the principal of a first trust
 18 as if the fiduciary had authority to distribute principal to a
 19 beneficiary with a disability subject to expanded distributive
 20 discretion if:
- 21 (1) a second trust is a special-needs trust or other trust that
 22 benefits the beneficiary with a disability; and
 23 (2) the special-needs fiduciary determines that an exercise of
 24 the decanting power will further the purposes of the first
 25 trust.
- 26 (f) In an exercise of the decanting power under this section, the
 27 following rules apply:
- 28 (1) Except as provided in section 41(f)(2) of this chapter, the
 29 interest in the second trust of a beneficiary with a disability
 30 may:
- 31 (A) be a pooled trust as defined by Medicaid law for the
 32 benefit of the beneficiary with a disability under 42 U.S.C.
 33 1396p(d)(4)(C), as amended and in effect on July 1, 2022;
 34 or
 35 (B) contain payback provisions complying with
 36 reimbursement requirements of Medicaid law under 42
 37 U.S.C. 1396p(d)(4)(A), as amended and in effect on July 1,
 38 2022.
- 39 (2) Section 41(f)(3) of this chapter does not apply to the
 40 interests of the beneficiary with a disability.
- 41 (3) Except as affected by a change to the interests of the
 42 beneficiary with a disability, the second trust, or if there are



1 two (2) or more second trusts, the second trusts in the
 2 aggregate, must grant each other beneficiary of the first trust
 3 beneficial interests in the second trusts which are
 4 substantially similar to the beneficiary's beneficial interests in
 5 the first trust.

6 Sec. 44. (a) As used in this section, "determinable charitable
 7 interest" means a charitable interest that is a right to a mandatory
 8 distribution currently, periodically, on the occurrence of a
 9 specified event, or after the passage of a specified time and that is
 10 unconditional or will be held solely for charitable purposes.

11 (b) As used in this section, "unconditional" means not subject
 12 to the occurrence of a specified event that is not certain to occur,
 13 other than a requirement in a trust instrument that a charitable
 14 organization be in existence or qualify under a particular provision
 15 of the United States Internal Revenue Code of 1986, as amended
 16 and in effect on July 1, 2022, on the date of the distribution, if the
 17 charitable organization meets the requirement on the date of
 18 determination.

19 (c) If a first trust contains a determinable charitable interest,
 20 the attorney general has the rights of a qualified beneficiary and
 21 may represent and bind the charitable interest.

22 (d) If a first trust contains a charitable interest, the second trust
 23 must not:

- 24 (1) diminish the charitable interest;
- 25 (2) diminish the interest of an identified charitable
- 26 organization that holds the charitable interest;
- 27 (3) alter any charitable purpose stated in the first-trust
- 28 instrument; or
- 29 (4) alter any condition or restriction related to the charitable
- 30 interest.

31 (e) If there are two (2) or more second trusts, the second trusts
 32 shall be treated as one (1) trust for purposes of determining
 33 whether the exercise of the decanting power diminishes the
 34 charitable interest or diminishes the interest of an identified
 35 charitable organization for purposes of subsection (d).

36 (f) If a first trust contains a determinable charitable interest, the
 37 second trust that includes a charitable interest pursuant to
 38 subsection (c) must be administered under the law of this state
 39 unless:

- 40 (1) the attorney general, after receiving notice under section
- 41 35 of this chapter, fails to object in a signed record delivered
- 42 to the authorized fiduciary within the notice period;



- 1 (2) the attorney general consents in a signed record to the
2 second trust being administered under the law of another
3 jurisdiction; or
4 (3) the court approves the exercise of the decanting power.
5 (g) This chapter does not limit the powers and duties of the
6 attorney general under the laws of this state other than this
7 chapter.
8 Sec. 45. (a) An authorized fiduciary may not exercise the
9 decanting power to the extent the first-trust instrument expressly
10 prohibits exercise of:
11 (1) the decanting power; or
12 (2) a power granted by state law to the fiduciary to distribute
13 part or all of the principal of the trust to another trust or to
14 modify the trust.
15 (b) Exercise of the decanting power is subject to a restriction in
16 the first-trust instrument that expressly applies to exercise of:
17 (1) the decanting power; or
18 (2) a power granted by state law to a fiduciary to distribute
19 the principal of the trust to another trust or to modify the
20 trust.
21 (c) The decanting power of an authorized fiduciary is not
22 precluded by:
23 (1) a general prohibition of the amendment or revocation of
24 a first trust;
25 (2) a spendthrift clause; or
26 (3) a clause restraining the voluntary or involuntary transfer
27 of a beneficiary's interest.
28 (d) Subject to subsections (a) and (b), an authorized fiduciary
29 may exercise the decanting power under this chapter even if the
30 first-trust instrument permits the authorized fiduciary or another
31 person to modify the first-trust instrument or to distribute the
32 principal of the first trust to another trust.
33 (e) If a first-trust instrument contains an express prohibition
34 described in subsection (a) or an express restriction described in
35 subsection (b), the provision must be included in the second-trust
36 instrument.
37 Sec. 46. (a) If a first-trust instrument specifies an authorized
38 fiduciary's compensation, the fiduciary may not exercise the
39 decanting power to increase the fiduciary's compensation above
40 the specified compensation unless:
41 (1) all qualified beneficiaries of the second trust consent to the
42 increase in a signed record; or



- 1 **(2) the increase is approved by the court.**
 2 **(b) If a first-trust instrument does not specify an authorized**
 3 **fiduciary's compensation, the fiduciary may not exercise the**
 4 **decanting power to increase the fiduciary's compensation above**
 5 **the compensation permitted by this article unless:**
 6 **(1) all qualified beneficiaries of the second trust consent to the**
 7 **increase in a signed record; or**
 8 **(2) the increase is approved by the court.**
 9 **(c) A change in an authorized fiduciary's compensation that is**
 10 **incidental to other changes made by the exercise of the decanting**
 11 **power is not an increase in the fiduciary's compensation for**
 12 **purposes of subsections (a) and (b).**
 13 **Sec. 47. (a) Except as otherwise provided in this section, a**
 14 **second-trust instrument must not relieve an authorized fiduciary**
 15 **from liability for breach of trust to a greater extent than the**
 16 **first-trust instrument.**
 17 **(b) A second trust instrument may provide for indemnification**
 18 **of an authorized fiduciary of the first trust or another person**
 19 **acting in a fiduciary capacity under the first trust for any liability**
 20 **or claim that would have been payable from the first trust if the**
 21 **decanting power had not been exercised.**
 22 **(c) A second-trust instrument must not reduce fiduciary liability**
 23 **in the aggregate.**
 24 **(d) Subject to subsection (c), a second-trust instrument may**
 25 **divide and reallocate fiduciary powers among fiduciaries, including**
 26 **one (1) or more trustees, distribution advisors, investment**
 27 **advisors, trust protectors, or other persons, and relieve a fiduciary**
 28 **from liability for an act or failure to act of another fiduciary as**
 29 **permitted by the laws of this state other than this chapter.**
 30 **Sec. 48. An authorized fiduciary must not exercise the decanting**
 31 **power to modify a provision in a first-trust instrument granting**
 32 **another person power to remove or replace the fiduciary unless:**
 33 **(1) the person holding the power consents to the modification**
 34 **in a signed record and the modification applies only to the**
 35 **person;**
 36 **(2) the person holding the power and the qualified**
 37 **beneficiaries of the second trust consent to the modification in**
 38 **a signed record and the modification grants a substantially**
 39 **similar power to another person; or**
 40 **(3) the court approves the modification and the modification**
 41 **grants a substantially similar power to another person.**
 42 **Sec. 49. (a) As used in this section, "grantor trust" means a trust**



1 as to which a settlor of a first trust is considered the owner under
2 26 U.S.C. 671 through 677, as amended and in effect on July 1,
3 2022, or 26 U.S.C. 679, as amended and in effect on July 1, 2022.

4 (b) As used in this section, "Internal Revenue Code" means the
5 United States Internal Revenue Code of 1986, as amended and in
6 effect on July 1, 2022.

7 (c) As used in this section "nongrantor trust" means a trust that
8 is not a grantor trust.

9 (d) As used in this section, "qualified benefits property" means
10 property subject to the minimum distribution requirements of 26
11 U.S.C. 401(a)(9), as amended and in effect on July 1, 2022, and any
12 applicable regulations, or to any similar requirements that refer to
13 26 U.S.C. 401(a)(9) or the regulations.

14 (e) An exercise of the decanting power is subject to the following
15 limitations:

16 (1) If a first trust contains property that qualified, or would
17 have qualified but for provisions of this chapter other than
18 this section, for a marital deduction for purposes of the gift or
19 estate tax under the Internal Revenue Code or a state gift,
20 estate, or inheritance tax, the second-trust instrument must
21 not include or omit any term that, if included in or omitted
22 from the trust instrument for the trust to which the property
23 was transferred, would have prevented the transfer from
24 qualifying for the deduction, or would have reduced the
25 amount of the deduction, under the same provisions of the
26 Internal Revenue Code or state law under which the transfer
27 qualified.

28 (2) If the first trust contains property that qualified, or would
29 have qualified but for provisions of this chapter other than
30 this section, for a charitable deduction for purposes of the
31 income, gift, or estate tax under the Internal Revenue Code or
32 a state income, gift, estate, or inheritance tax, the second-trust
33 instrument must not include or omit any term that, if included
34 in or omitted from the trust instrument for the trust to which
35 the property was transferred, would have prevented the
36 transfer from qualifying for the deduction, or would have
37 reduced the amount of the deduction, under the same
38 provisions of the Internal Revenue Code or state law under
39 which the transfer qualified.

40 (3) If the first trust contains property that qualified, or would
41 have qualified but for provisions of this chapter other than
42 this section, for the exclusion from the gift tax described in 26



1 U.S.C. 2503(b), as amended and in effect on July 1, 2022, the
2 second-trust instrument must not include or omit a term that,
3 if included in or omitted from the trust instrument for the
4 trust to which the property was transferred, would have
5 prevented the transfer from qualifying under 26 U.S.C.
6 2503(b), as amended and in effect on July 1, 2022. If the first
7 trust contains property that qualified, or would have qualified
8 but for provisions of this chapter other than this section, for
9 the exclusion from the gift tax described in 26 U.S.C. 2503(b),
10 as amended and in effect on July 1, 2022, by application of 26
11 U.S.C. 2503(c), as amended and in effect on July 1, 2022, the
12 second-trust instrument must not include or omit a term that,
13 if included in or omitted from the trust instrument for the
14 trust to which the property was transferred, would have
15 prevented the transfer from qualifying under 26 U.S.C.
16 2503(c), as amended and in effect on July 1, 2022.

17 (4) If the property of the first trust includes shares of stock in
18 an S corporation, as defined in 26 U.S.C. 1361, as amended
19 and in effect on July 1, 2022, and the first trust is, or but for
20 provisions of this chapter other than this section would be, a
21 permitted shareholder under any provision of 26 U.S.C. 1361,
22 as amended and in effect on July 1, 2022, an authorized
23 fiduciary may exercise the power with respect to part or all of
24 the S corporation stock only if any second trust receiving the
25 stock is a permitted shareholder under 26 U.S.C. 1361(c)(2),
26 as amended and in effect on July 1, 2022. If the property of
27 the first trust includes shares of stock in an S corporation and
28 the first trust is or, but for provisions of this chapter other
29 than this section, would be a qualified subchapter S trust
30 within the meaning of 26 U.S.C. 1361(d), as amended and in
31 effect on July 1, 2022, the second-trust instrument must not
32 include or omit a term that prevents the second trust from
33 qualifying as a qualified subchapter S trust.

34 (5) If the first trust contains property that qualified, or would
35 have qualified but for provisions of this chapter other than
36 this section, for a zero (0) inclusion ratio for purposes of the
37 generation skipping transfer tax under 26 U.S.C. 2642(c), as
38 amended and in effect on July 1, 2022, the second-trust
39 instrument must not include or omit a term that, if included
40 in or omitted from the first-trust instrument, would have
41 prevented the transfer to the first trust from qualifying for a
42 zero (0) inclusion ratio under 26 U.S.C. 2642(c), as amended



- 1 and in effect on July 1, 2022.
- 2 (6) If the first trust is directly or indirectly the beneficiary of
 3 qualified benefits property, the second-trust instrument may
 4 not include or omit any term that, if included in or omitted
 5 from the first-trust instrument, would have increased the
 6 minimum distributions required with respect to the qualified
 7 benefits property under 26 U.S.C. 401(a)(9), as amended and
 8 in effect on July 1, 2022, and any applicable regulations, or
 9 any similar requirements that refer to 26 U.S.C. 401(a)(9), as
 10 amended and in effect on July 1, 2022, or the regulations. If
 11 an attempted exercise of the decanting power violates this
 12 subdivision, the trustee is deemed to have held the qualified
 13 benefits property and any reinvested distributions of the
 14 property as a separate share from the date of the exercise of
 15 the power and section 52 of this chapter applies to the
 16 separate share.
- 17 (7) If the first trust qualifies as a grantor trust because of the
 18 application of 26 U.S.C. 672(f)(2)(A), as amended and in effect
 19 on July 1, 2022, the second trust may not include or omit a
 20 term that, if included in or omitted from the first-trust
 21 instrument, would have prevented the first trust from
 22 qualifying under 26 U.S.C. 672(f)(2)(A), as amended and in
 23 effect on July 1, 2022.
- 24 (8) As used in this subdivision, "tax benefit" means a federal
 25 or state tax deduction, exemption, exclusion, or other benefit
 26 not otherwise listed in this section, except for a benefit arising
 27 from being a grantor trust. Subject to subdivision (9), a
 28 second-trust instrument may not include or omit a term that,
 29 if included in or omitted from the first-trust instrument,
 30 would have prevented qualification for a tax benefit if:
- 31 (A) the first-trust instrument expressly indicates an intent
 32 to qualify for the benefit or the first-trust instrument is
 33 clearly designed to enable the first trust to qualify for the
 34 benefit; and
- 35 (B) the transfer of property held by the first trust or the
 36 first trust qualified or, but for provisions of this chapter
 37 other than this section, would have qualified for the tax
 38 benefit.
- 39 (9) Subject to subdivision (4):
- 40 (A) except as provided in subdivision (7), the second trust
 41 may be a nongrantor trust, even if the first trust is a
 42 grantor trust; and



- 1 **(B) except as otherwise provided in subdivision (10), the**
 2 **second trust may be a grantor trust, even if the first trust**
 3 **is a nongrantor trust.**
- 4 **(10) An authorized fiduciary may not exercise the decanting**
 5 **power if a settlor objects in a signed record delivered to the**
 6 **fiduciary within the notice period and:**
- 7 **(A) the first trust and a second trust are both grantor**
 8 **trusts, in whole or in part, the first trust grants the settlor**
 9 **or another person the power to cause the first trust to**
 10 **cease to be a grantor trust, and the second trust does not**
 11 **grant an equivalent power to the settlor or other person;**
 12 **or**
- 13 **(B) the first trust is a nongrantor trust and a second trust**
 14 **is a grantor trust, in whole or in part, with respect to the**
 15 **settlor, unless:**
- 16 **(i) the settlor has the power at all times to cause the**
 17 **second trust to cease to be a grantor trust; or**
- 18 **(ii) the first-trust instrument contains a provision**
 19 **granting the settlor or another person a power that**
 20 **would cause the first trust to cease to be a grantor trust**
 21 **and the second-trust instrument contains the same**
 22 **provision.**
- 23 **Sec. 50. (a) Subject to subsection (b), a second trust may have a**
 24 **duration that is the same as or different from the duration of the**
 25 **first trust.**
- 26 **(b) To the extent that property of a second trust is attributable**
 27 **to property of the first trust, the property of the second trust is**
 28 **subject to any rules governing maximum perpetuity, accumulation,**
 29 **or suspension of the power of alienation that apply to property of**
 30 **the first trust.**
- 31 **Sec. 51. An authorized fiduciary may exercise the decanting**
 32 **power whether under the first trust's discretionary distribution**
 33 **standard the fiduciary would have made or could have been**
 34 **compelled to make a discretionary distribution of principal at the**
 35 **time of the exercise.**
- 36 **Sec. 52. (a) If exercise of the decanting power would be effective**
 37 **under this chapter except that the second-trust instrument in part**
 38 **does not comply with this chapter, the exercise of the power is**
 39 **effective and the following rules apply with respect to the principal**
 40 **of the second trust attributable to the exercise of the power:**
- 41 **(1) A provision in the second-trust instrument that is not**
 42 **permitted under this chapter is void to the extent necessary to**



1 **comply with this chapter.**

2 **(2) A provision required by this chapter to be in the**
 3 **second-trust instrument that is not contained in the**
 4 **instrument is deemed to be included in the instrument to the**
 5 **extent necessary to comply with this chapter.**

6 **(b) If a trustee or other fiduciary of a second trust determines**
 7 **that subsection (a) applies to a prior exercise of the decanting**
 8 **power, the fiduciary shall take corrective action consistent with the**
 9 **fiduciary's duties.**

10 **Sec. 53. (a) As used in this section, "animal trust" means a trust**
 11 **or an interest in a trust created to provide for the care of one (1) or**
 12 **more animals.**

13 **(b) As used in this section, "protector" means a person**
 14 **appointed in an animal trust to enforce the trust on behalf of the**
 15 **animal or, if no such person is appointed in the trust, a person**
 16 **appointed by the court for that purpose.**

17 **(c) The decanting power may be exercised over an animal trust**
 18 **that has a protector to the extent the trust could be decanted under**
 19 **this chapter if each animal that benefits from the trust were an**
 20 **individual, if the protector consents in a signed record to the**
 21 **exercise of the power.**

22 **(d) A protector for an animal has the rights under this chapter**
 23 **of a qualified beneficiary.**

24 **(e) If a first trust is an animal trust, in an exercise of the**
 25 **decanting power, the second trust must provide that trust property**
 26 **may be applied only to its intended purpose for the period the first**
 27 **trust benefitted the animal.**

28 **Sec. 54. A reference in this article to a trust instrument or terms**
 29 **of the trust includes a second-trust instrument and the terms of the**
 30 **second trust.**

31 **Sec. 55. (a) For purposes of law of this state other than this**
 32 **chapter and subject to subsection (b), a settlor of a first trust is**
 33 **deemed to be the settlor of the second trust with respect to the**
 34 **portion of the principal of the first trust subject to the exercise of**
 35 **the decanting power.**

36 **(b) In determining settlor intent with respect to a second trust,**
 37 **a settlor of the first trust, a settlor of the second trust, and the**
 38 **authorized fiduciary may be considered.**

39 **Sec. 56. (a) Except as provided in subsection (c), if exercise of**
 40 **the decanting power was intended to distribute all of the principal**
 41 **of the first trust to one (1) or more second trusts, later discovered**
 42 **property belonging to the first trust and property paid to or**



1 acquired by the first trust after the exercise of the power is part of
2 the trust estate of the second trust.

3 (b) Except as provided in subsection (c), if exercise of the
4 decanting power was intended to distribute less than all of the
5 principal of the first trust to one (1) or more second trusts, later
6 discovered property belonging to the first trust or property paid to
7 or acquired by the first trust after exercise of the power remains
8 part of the trust estate of the first trust.

9 (c) An authorized fiduciary may provide in an exercise of the
10 decanting power or by the terms of a second trust for disposition
11 of later discovered property belonging to the first trust or property
12 paid to or acquired by the first trust after exercise of the power.

13 **Sec. 57.** A debt, liability, or other obligation enforceable against
14 property of a first trust is enforceable to the same extent against
15 the property when held by the second trust after exercise of the
16 decanting power.

17 **Sec. 58.** In applying and construing this uniform act,
18 consideration must be given to the need to promote uniformity of
19 the law with respect to its subject matter among states that enact
20 it.

21 **Sec. 59.** This chapter modifies, limits, or supersedes the
22 Electronic Signatures in Global and National Commerce Act, 15
23 U.S.C. 7001 as amended and in effect on July 1, 2022, but does not
24 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C.
25 7001(c) as amended and in effect on July 1, 2022, or authorize
26 electronic delivery of any of the notices described in Section 103(b)
27 of that act, 15 U.S.C. 7003(b) as amended and in effect on July 1,
28 2022.

29 **Sec. 60.** If any provision of this chapter or its application to any
30 person or circumstance is held invalid, the invalidity does not affect
31 other provisions or applications of this chapter that can be given
32 effect without the invalid provision or application, and to this end
33 the provisions of this chapter are severable.

34 SECTION 4. IC 34-30-2-132.7 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2022]: **Sec. 132.7. IC 30-4-10-34 (Concerning**
37 **a trustee who reasonably relies on a distribution or modification of**
38 **a trust that transfers property to a second trust and does not act).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1205, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1205 as introduced.)

TORR

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1205, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 8, line 27, delete "in an action for" and insert "**to any person for any action or**".

Page 10, line 11, after "by" insert "**an authorized fiduciary, a beneficiary, or**".

Page 16, delete lines 19 through 24, begin a new paragraph and insert:

"(c) The decanting power of an authorized fiduciary is not precluded by:

- (1) a general prohibition of the amendment or revocation of a first trust;**
- (2) a spendthrift clause; or**
- (3) a clause restraining the voluntary or involuntary transfer of a beneficiary's interest."**

and when so amended that said bill do pass.

(Reference is to HB 1205 as printed January 13, 2022.)

BROWN L, Chairperson

Committee Vote: Yeas 11, Nays 0.

EH 1205—LS 6169/DI 107

